



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

DISTINCTIVE FEATURES OF THE JUVENILE COURT

BY HASTINGS H. HART, LL. D.,

Director, Department of Child Helping, Russell Sage Foundation, New York.

The question often arises: How does the Juvenile Court, as established in Illinois in 1899, differ from the children's courts which were established earlier in Massachusetts and New York? The essential difference is that the children's courts of New York and Massachusetts were criminal courts, in which it was necessary to convict the child of a crime before he could be paroled or could enjoy the remedial influences of the court.

Hon. Harvey B. Hurd, who was the author of the Juvenile Court Law, made provision for taking children's cases out of the jurisdiction of the justices of the peace, the police courts and the criminal courts, and placing the jurisdiction in the county courts and the circuit courts. The law made provision for dealing with these cases, not as a criminal proceeding, but as a chancery proceeding, in which the child was treated not as a prisoner at the bar, but as a ward of the state. The statute was carefully drawn, so as to free the proceedings from all taint of the criminal court, and provided that, where children's cases were brought before justices' courts or police courts, it should be the duty of the justice to transfer the case to the Juvenile Court. Under the Illinois Juvenile Court Law, there is no indictment or complaint, and the child is not accused of any crime, but a petition is filed alleging a condition—namely, the condition of the delinquency or the condition of dependency.

As a rule, no warrant is issued, but a summons is issued to the parent, guardian or custodian of the child. The summons runs as follows:

"We command that you summon A. B. before the Circuit Court of Cook County, on the 19th day of March, 1910, at 10 o'clock in the forenoon, to answer under the petition of C. D., alleging that E. F., now in the custody and control of the said C. D., is a delinquent child, and that the said C.D. then and there have said child in open court."

The law provides that a warrant may issue only on affidavit

that such summons will be ineffectual to secure the presence of the child; but in ordinary cases the child is not brought in court by a policeman or deputy sheriff, but by his parent or guardian, or by a probation officer, without a warrant.

The child is not imprisoned, but the law expressly provides that no child shall be kept in any jail or police station, but that, if necessary, he shall be kept in some suitable place provided by the city or county outside of the enclosure of any jail or police station.

When the child is brought into court there is an absence of criminal proceedings. There is no prosecutor present, but the law provides that if practicable a probation officer shall be notified in advance and shall be present in court "to represent the interests of the child." The law provides further that the probation officer shall make such investigation of the case before and after the trial as the court may direct.

In the trial of children's cases in the juvenile court the ordinary rules of evidence are not enforced. Witnesses are subpoenaed, but the probation officer is allowed to testify to hearsay evidence; what he has learned from the child, the parents and the neighbors, the policeman on the beat, the school teacher, the employer. In many cases the judge halts the proceedings and calls the child to the bench and allows him to tell his own story in his own way.

The law provides that a jury may be called at the discretion of the court, or on demand of the friends of the child, but this jury consists of six men, not of twelve. The jury finds no verdict as to the innocence or guilt of the child, but simply finds the child delinquent or dependent, and there its duties cease. There is no verdict of "guilty" or "not guilty," but a verdict as to the condition of the child.

When the child is found delinquent, no sentence is pronounced. The judge has a wide discretion. He may return the child to his own home, under the friendly watch-care of a probation officer. He may instruct the probation officer to find a foster home for the child. He may commit the child to the friendly care of some child-helping society, or he may commit the child to a reformatory or some other institution—not for punishment, but for care and training. The judge may retain jurisdiction over the case for the further watch-care and guardianship of the child.

It may be said: Why should we disregard the sacred rights of

the child and remove the safeguards which are provided in every criminal court against the introduction of hearsay evidence? The reason why it is right to do this is that the proceeding is not *The State vs. Johnny Jones*, but *The State for Johnny Jones*. The proceeding is not against the child, but in behalf of the child. The effort of the judge is not to determine the guilt or innocence of the child, but to obtain such information as will enable him best to exercise those chancery powers of guardianship and friendly care which are conferred upon him by the law.

While the child is not on trial in any criminal sense, it often happens that the parent unexpectedly finds himself on trial. The big, husky father comes into court, holding by the hand a little boy of nine or ten. He says, "Judge, your honor, I wish that you would do something with this boy. I cannot do anything with him. He won't mind me, he runs the street nights, he runs away from school; I wish you would put him somewhere where they will make a good boy of him."

As the case proceeds, such a father is often treated to a very great surprise. The judge calls him up, and says: "I find from the evidence here given that it is you who are responsible for the delinquency of your child. You have allowed the boy to run the streets at night, you have failed to keep him in school, you have lived in a disreputable neighborhood, you have spent your money in drink and neglected your family. I find you guilty of contributing to the delinquency of this child, and I hereby impose a fine of \$100. I will suspend this fine on condition that you immediately change your practice with reference to this point. You are to see to it that he goes to school, or you are to keep him out of bad company, or you are to move into a better neighborhood, or you are to change your occupation." It is often a revelation to a neglectful parent to discover that he is to be held responsible for the care and training of his own child.

Judge Julian W. Mack, of Chicago, called attention in a recent address before the American Bar Association to the fact that although the New York law was so changed in 1909, that a child brought before the children's court "shall not be deemed guilty of any crime, but of juvenile delinquency only," "this would seem to effectuate merely a change in the name of every crime or offense from that by which it was heretofore known to the crime of juvenile

delinquency." In other words, the proceeding continues to be a criminal proceeding, and the child carries the stigma of a criminal conviction.

The essence of the juvenile court idea, and of the juvenile court movement, is the recognition of the obligation of the great mother state to her neglected and erring children, and her obligation to deal with them as children, and as wards, rather than to class them as criminals and drive them by harsh measures into the ranks of vice and crime.